

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

G&G CLOSED CIRCUIT EVENTS, LLC,

Plaintiff,

-against-

REINALDO GODINEZ, et al,

Defendants.

ORDER

23-CV-03868 (PMH)

PHILIP M. HALPERN, United States District Judge:

A pre-motion conference was held on September 5, 2023. Counsel for all parties appeared by telephone. As discussed on the record, the Court heard argument on Defendants’ contemplated motion to dismiss Plaintiff’s Complaint in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(1).

The Court construed Defendants’ pre-motion letter (Doc. 17) as its motion to dismiss and Plaintiff’s response letter (Doc. 24) as its opposition, and considering the parties’ arguments thereto, granted the motion and dismissed the Complaint without prejudice. (*See* Transcript); *see In re Best Payphones, Inc.*, 450 F. App’x 8, 15 (2d Cir. 2011) (finding the Court did not abuse its discretion in construing the parties’ letter-motions as the motions themselves, and ruling on them). Specifically, the Court cited to Plaintiff’s, a foreign limited liability company, failure to obtain a certificate of authority pursuant to New York Limited Liability Company Law (“LLC Law”) § 808(a), despite having been on notice of this issue for at least sixty (60) days. The Court further found that Plaintiff’s Complaint provides a sufficient factual showing that Plaintiff conducts business in New York and did not find that an exception under the LLC Law applies. Accordingly, Defendants’ motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1) is granted. The Complaint is dismissed without prejudice. If Plaintiff obtains a certificate of authority from

the State of New York, Plaintiff may, within thirty (30) days of this Order, file a letter requesting that the action be reopened.

It is hereby Ordered that this action is dismissed without costs and without prejudice to restoring the action to the Court's calendar, provided the application to restore the action is made within thirty (30) days of this Order and provided Plaintiff obtains a certificate of authority. Any application to reopen filed after thirty (30) days of this Order may be denied solely on that basis.

SO ORDERED:

Dated: White Plains, New York
September 6, 2023



PHILIP M. HALPERN
United States District Judge